

RECEIVED  
REGIONAL HEARING  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

'99 JAN 19 P4:09

IN THE MATTER OF	)	Docket No. 5-CAA-98-027
	)	
Illinois Power Company, and	)	Proceeding to Assess
State Farm Mutual Automobile	)	Administrative Penalties
Insurance Company,	)	under Section 113(d) of the
Bloomington, Illinois	)	Clean Air Act,
	)	42 U.S.C. § 7413(d)
Respondent	)	
_____	)	

**CONSENT AGREEMENT AND CONSENT ORDER**

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, by issuing and filing an Administrative Complaint (Complaint) against Respondents Illinois Power Company and State Farm Mutual Automobile Insurance Company.

**I. PRELIMINARY STATEMENT**

2. The Complaint alleges that Respondents violated the regulations to prevent the significant deterioration of air quality in areas which have achieved National Ambient Air Quality Standards (NAAQS), which are codified at 40 C.F.R. § 52.21 ("PSD regulations") and which have been incorporated into the Illinois

SIP. Specifically, the Complaint alleges that State Farm and Illinois Power initiated construction of three 1,600 kW generators at the North Plant of the State Farm Corporate South Complex ("State Farm Complex"), that State Farm initiated construction of four boilers at the State Farm Complex, that such construction of generators and boilers constituted the construction of a "major stationary source" as defined at 40 C.F.R. § 52.21(b)(1)(i)(b), and that State Farm and Illinois Power initiated such construction without first obtaining a PSD permit.

3. Respondents filed Answers to the Complaint in which they admitted some factual allegations and denied some factual allegations. Specifically, Illinois Power and State Farm deny that construction of the boilers and generators triggered PSD applicability and Illinois Power denies that it initiated construction and operation of the diesel generators without the required permit, as Joint Construct and Operate Permit Number 43010091 was issued by the Illinois Environmental Protection Agency ("IEPA") on March 10, 1993 covering both the construction and operation of the diesel generators.

4. Respondents admit the jurisdictional allegations set forth in the Complaint but continue to deny that their construction of the boilers and generators triggered PSD applicability. However, State Farm has applied to IEPA for a

permit which will limit the combined emissions of the boilers and generators to less than 250 tons per year.

5. Complainant and Respondents have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order.

6. Respondents certify that State Farm has applied to the IEPA for a permit and that, to the best of Respondents' knowledge, issuance of such permit will be in compliance with the PSD regulations.

7. Respondents waive their right to a hearing on the allegations of the Complaint.

8. This Consent Agreement and Consent Order shall apply to and be binding upon Respondents, their officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

9. Respondent and Complainant consent to the terms of settlement forth below.

## **II. TERMS OF SETTLEMENT**

10. Respondents will continue to pursue IEPA approval of State Farm's application for a permit which will limit the combined emissions from the boilers and generators to less than 250 tons per year.

11. Based on the foregoing stipulations and findings, and having taken into account the seriousness and duration of the

violations, Respondent's full compliance history, degree of culpability, economic benefit or savings resulting from the violations, the size of Respondent's business and the economic impact of the penalty on the business, and Respondent's good faith efforts to comply, Complainant agrees to mitigate the one hundred and forty thousand dollar (\$140,000) penalty to twenty thousand dollars (\$20,000).

12. Both Respondents consent to the issuance of this Consent Agreement.

13. State Farm agrees, for the purposes of settlement, to pay the entire \$20,000 civil penalty cited in the foregoing paragraph.

14. Within thirty (30) days of the filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk, Region 5, State Farm shall submit a cashier's or certified check in the amount of twenty thousand dollars (\$20,000), payable to the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

A transmittal letter, indicating State Farm's name, complete address, the case docket number and the billing document number must accompany the payment. The case docket number and the billing document number shall also be included on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd. (MF-10J)  
Chicago, Illinois 60604-3590

Brent Marable  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd. (AE-17J)  
Chicago, Illinois 60604-3590

Janice S. Loughlin  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd. (C-14J)  
Chicago, Illinois 60604-3590

15. The penalty specified in Paragraph 11, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.

16. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. A late payment handling charge of \$15.00 will be imposed if payment is not made within 60 days after the Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, with an additional charge of \$15.00 for each subsequent 30-day period over which an unpaid balance remains. In addition, a quarterly non-payment penalty will be assessed for each quarter during which Respondents fail to timely pay the penalty. The non-payment penalty will be ten (10) percent of the aggregate amount of the outstanding penalties and non-payment penalties accrued as of the beginning of the quarter.

17. This Consent Agreement and Consent Order constitutes a full settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents. Compliance with this Consent Agreement and Consent Order shall not be a defense to any actions subsequently commenced, for violations other than those alleged in the Complaint, pursuant to Federal laws and regulations administered by U.S. EPA and it is the responsibility of Respondents to comply with such laws and regulations.

18. Any failure by a Respondent to comply with any provision of this Consent Agreement and Consent Order may subject such Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest, handling charges, and nonpayment penalties as set forth in Paragraph 13 above. In any such collection action, the validity, amount, and appropriateness of this Order or the penalty assessed hereunder are not subject to review.

19. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for

Respondents' violation of any applicable provision of law, not otherwise covered by this Consent Agreement and Consent Order.

20. Nothing in this Consent Agreement and Consent Order shall relieve Respondents of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.

21. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this Consent Agreement and Consent Order and to bind that party to such terms.

22. This Consent Agreement and Consent Order constitutes the entire agreement between Complainant and Respondents.

23. The parties to this agreement consent to the entry of this Consent Agreement and Consent Order without further notice.

24. Each party shall bear its own costs, fees and disbursements in this action.

**U.S. Environmental Protection  
Agency, Complainant**

Date: 1/14/99

By: 

Steve Rothblatt, Acting Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

CONSENT AGREEMENT AND CONSENT ORDER  
Illinois Power/State FARM  
Docket No. 5-CAA-98-027

State Farm Mutual Automobile  
Insurance Company,  
Respondent

Date: 1-11-98<sup>am</sup>

By: 



CONSENT AGREEMENT AND CONSENT ORDER  
Illinois Power/State FARM  
Docket No. 5-CAA-98-027

Illinois Power Company,  
Respondent

Date: 1-8-99

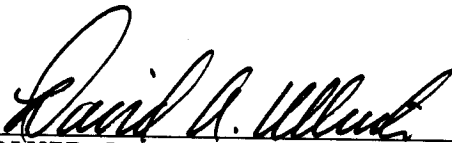
By: Kim B. Leftwich  
Kim Leftwich, Vice President

CONSENT AGREEMENT AND CONSENT ORDER  
Illinois Power/State FARM  
Docket No. 5-CAA-98-027

III. ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondents are hereby ordered to comply with the terms of the above Consent Agreement, effective immediately.

Dated: January 15, 1999

  
\_\_\_\_\_  
DAVID A. ULLRICH  
Acting Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Docket No.: 5-CAA-98-027

RECEIVED  
REGIONAL HEARING

CERTIFICATE OF FILING AND MAILING

'99 JAN 19 P4:07

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Consent Order (CACO), was sent to Illinois Power Company and State Farm Mutual, was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CACO was sent Certified Mail, Return Receipt Requested, to:


Kim Leftwich, Vice President  
Illinois Power Company  
P.O. Box 511  
Decatur, Illinois 62525-0511

I also certify that copies of the CACO were sent by First Class Mail to:

Renee Cipriano  
Schiff Hardin & Waite  
7300 Sears Tower  
Chicago, Illinois 60606-6473

David Kolaz, Manager  
Compliance and Systems Management Section  
Bureau of air  
Illinois Environmental Protection agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 19<sup>th</sup> Day of January 1999.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P 140 894 290